IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No. 2356 of 2003

For Approval and Signature:

HONOURABLE MR.JUSTICE AKSHAY H.MEHTA

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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DEPUTY COLLLECTOR LAND ACQUISITION OFFICER & 1 - Appellant(s)
Versus
HEIRS OF DECD. ARJAN MANJI :_-UKABHAI ARJANBHAI - Defendant(s)

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Appearance :
MR UDAY BHATT A.G.P. for Appellant(s) : 1 - 2.
RULE SERVED for Defendant(s) : 1,

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CORAM : HONOURABLE MR.JUSTICE AKSHAY H.MEHTA

Date : 21/02/2007

ORAL JUDGMENT

1. This matter has been placed on board for orders. However, its cognate matter namely, First Appeal No. 2341/2003 has been heard and disposed of by this Court

today itself, i.e. 21st February, 2007. This matter can also be disposed of on the same line. Hence without granting any time for removal of office objections, final order is passed, which is as under.

2. This is an appeal under section 54 of the Land Acquisition Act, 1894 [hereinafter referred to as 'the Act'] to challenge the judgment and award made by the 5th Joint Civil Judge [S.D.], Junagadh dated 9th May, 2003 in Land Reference Case No. 578 of 1999. By the said award the Court granted Rs.413=00 per Are for Bagayat land and Rs.310=00 per Are for Jirayat land. The lands in question were acquired for Uben Irrigation Project. They are situated at village Choki, Taluka and District Junagadh.

3. I have perused the record of this appeal and I have also heard Mr. Bhatt, learned A.G.P., for the appellant. Respondents though served, have not appeared. Considering the fact that in this appeal the claim for Court fees is Rs.17,569=00, this appeal can be disposed of on the ground of smallness of the amount. By now, it is well settled proposition of law laid down by this Court that in the cases involving petty claims, the appeals can be disposed of without entering into the merits of the case. The Division Bench of this Court in the decision rendered in the case of Deputy Collector v.

Bhikha Gokal in First Appeal No. 6765 of 1999 dated 29th March, 2000, has observed as under:

> "It is the consistent practice which is followed by various Division Bench of this Court that wherein claim involved in the Land Reference Cases is less than Rs.35,000=00, appeal should be dismissed on the ground that it involves petty claim. Claimants have lost their only source of livelihood i.e., their agricultural lands which were compulsorily acquired for the public purpose of Uben Irrigation Scheme. If these appeals are admitted and kept for final hearing, it would cause great hardship and financial loss to the claimants because they will have to incur expenses of engaging advocate and other miscellaneous expenses. Therefore, these appeals require to be dismissed on the ground of petty claim alone. We, however, make it clear that we have not gone into the merits or de-merits of the References filed by the claimants and this judgment will not be cited as a precedent for the similar appeals filed for the determination of the market value of the acquired lands arising from the very acquisition of Uben Irrigation Scheme."

4. In view of the same, the claim in this appeal can be safely placed in the category of 'petty claim.' Therefore, without entering into the merits of the case, the appeal is required to be dismissed and it is hereby dismissed.

[Akshay H Mehta, J.]

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